

§ 14-50.16A. Criminal gang activity.

Definitions. – The following definitions apply in this Article:

- (1) **Criminal gang.** – Any ongoing organization, association, or group of three or more persons, whether formal or informal, that (i) has as one of its primary activities the commission of criminal or delinquent acts and (ii) shares a common name, identification, signs, symbols, tattoos, graffiti, attire, or other distinguishing characteristics, including common activities, customs, or behaviors. The term shall not include three or more persons associated in fact, whether formal or informal, who are not engaged in criminal gang activity.
- (2) **Criminal gang activity.** – The commission of, attempted commission of, or solicitation, coercion, or intimidation of another person to commit (i) any offense under Article 5 of Chapter 90 of the General Statutes or (ii) any offense under Chapter 14 of the General Statutes except Article 9, 22A, 40, 46, or 59 thereof, and further excepting G.S. 14-82, 14-145, 14-183, 14-184, 14-186, 14-190.9, 14-247, 14-248, or 14-313 thereof, and either of the following conditions is met:
 - a. The offense is committed with the intent to benefit, promote, or further the interests of a criminal gang or for the purposes of increasing a person's own standing or position within a criminal gang.
 - b. The participants in the offense are identified as criminal gang members acting individually or collectively to further any criminal purpose of a criminal gang.
- (3) **Criminal gang leader or organizer.** – Any criminal gang member who acts in any position of management with regard to the criminal gang and who meets two or more of the following criteria:
 - a. Exercises decision-making authority over matters regarding a criminal gang.
 - b. Participates in the direction, planning, organizing, or commission of criminal gang activity.
 - c. Recruits other gang members.
 - d. Receives a larger portion of the proceeds of criminal gang activity.
 - e. Exercises control and authority over other criminal gang members.
- (4) **Criminal gang member.** – Any person who meets three or more of the following criteria:
 - a. The person admits to being a member of a criminal gang.
 - b. The person is identified as a criminal gang member by a reliable source, including a parent or a guardian.
 - c. The person has been previously involved in criminal gang activity.
 - d. The person has adopted symbols, hand signs, or graffiti associated with a criminal gang.
 - e. The person has adopted the display of colors or the style of dress associated with a criminal gang.
 - f. The person is in possession of or linked to a criminal gang by physical evidence, including photographs, ledgers, rosters, written or electronic communications, or membership documents.
 - g. The person has tattoos or markings associated with a criminal gang.
 - h. The person has adopted language or terminology associated with a criminal gang.

- i. The person appears in any form of social media to promote a criminal gang. (2017-194, s. 4.)